

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Service Rules for Advanced Wireless	)	WT Docket No. 07-195
Services in the 2155-2175 MHz Band	)	

To the Commission:

**REPLY COMMENTS OF  
BROADBAND WIRELESS PARTNERS**

**I. INTRODUCTION AND SUMMARY**

Broadband Wireless Partners<sup>1</sup> (“BWP”) is a consortium of rural telecommunications providers operating in 35 states and delivering services to approximately two million customers who are committed to the deployment and provision of broadband wireless services throughout the rural areas of America. BWP submits these comments to strongly urge the Federal Communications Commission (“FCC” or “Commission”) to adopt rules for the 2155-2175 MHz band that will assist rural carriers in their efforts to extend the benefits of broadband Internet service to underserved communities. Specifically, BWP calls on the Commission to adopt rules that will facilitate national wholesale agreements between entities like BWP and the eventual AWS-3 licensee.

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<sup>1</sup>Recognizing the challenges faced by small and rural carriers in the spectrum auction process, BWP was established to pursue opportunities for rural carriers to participate in the provision of broadband wireless services through negotiation with nationwide carriers to ensure that rural consumers are served.

Given the scarcity and cost of spectrum, BWP realized early on that it would be necessary to partner with a nationwide carrier supportive of these objectives to achieve this goal. In spite of the best efforts of RLECs, rural Americans have largely been disadvantaged in the digital revolution because of the business practices of the large, nationwide incumbent carriers. These practices, to date, have made affordable digital telephony roaming arrangements unavailable to many RLEC customers. Even in those instances where small rural wireless carriers achieve roaming agreements, large nationwide carriers often refuse to enable their customers' handsets to utilize the rural carrier networks. As a result, when urban based customers of larger national carriers travel into rural areas served by smaller wireless carriers, they are unable to utilize the rural carriers' networks. Further, spectrum sharing agreements have been elusive, and wholesale and resale agreements have yielded one-sided economics for RLECs and unsatisfactory service levels for RLEC customers.

Accordingly, BWP respectfully submits these Comments in response to the FCC's Notice of Proposed Rulemaking ("NPRM")<sup>2</sup> in WT-Docket 07-195. In this NPRM, the Commission seeks "comment on service rules for licensed fixed and mobile services, including Advanced Wireless Services (AWS), in the 2155-2175 MHz band (AWS-3)."<sup>3</sup> In particular, the Commission solicited comments on "appropriate performance requirements for licenses in the 2155-2175 MHz band in order to further access to spectrum and provision of service to consumers, including those in rural areas." As a coalition of rural local exchange carriers, BWP urges the Commission to establish

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<sup>2</sup> *Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band*, WT Docket No. 07-195, Notice of Proposed Rulemaking, FCC 07-164 (rel. Sept. 19, 2007) ("NPRM").

<sup>3</sup> *Id.* ¶ 112.

robust buildout requirements for this spectrum band in order to serve the interests of the millions of Americans who lack affordable access to broadband. Further, BWP believes that, given the absence of meaningful partnering arrangements in the market today to address the interests of smaller carriers committed to serving underserved rural areas, the Commission should adopt service rules for this band that will give RLECs real, meaningful access to workable, nationwide wholesale arrangements, such as that offered by M2Z Networks, Inc. (“M2Z”) to BWP and its members.

## **II. M2Z NETWORKS IS A PRIME EXAMPLE OF THE BENEFITS OF PARTNERSHIPS BETWEEN RLECS AND PROGRESSIVE NATIONWIDE CARRIERS**

In September, 2007, BWP announced a wholesale partnership with M2Z to provide high-speed wireless broadband service in bundles to customers.<sup>4</sup> BWP’s confidence in this partnership is based in part upon the company’s commitment to a robust buildout schedule, as previously detailed in the company’s filings.

This wholesale partnership highlights the public interest benefits of a comprehensive buildout plan and a nationwide carrier willing to work with rural carriers to achieve the objectives outlined above. M2Z’s wholesale service offering will provide much needed capability for rural telephone companies by giving their customers access to national broadband data roaming. In exchange, M2Z can expand its customer base and support a level of service which RLEC customers have come to expect of RLECs over the years.

The agreement by M2Z to enter into a wholesale partnership with BWP and its RLEC members provides a framework that addresses a number of issues relevant to this

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<sup>4</sup> See <http://www.m2znetworks.com/xres/uploads/documents/M2Z%20Press%20Release%209-17-07.pdf>

NPRM. Most importantly, too many Americans living in the most rural areas of our country have too few choices, if any, when it comes to broadband. RLECs have done an admirable job of bringing advanced services and cutting-edge technologies to consumers across the country in their respective service areas. The RLECs have an interest and desire to expand their demonstrated commitment to the deployment of DSL broadband services by bringing broadband wireless services throughout rural areas of the nation. Unfortunately, nationwide wireless incumbents have muzzled the innovative potential of RLECs by hoarding valuable spectrum and refusing to enter into equitable roaming agreements or spectrum sharing arrangements. At the same time, these nationwide carriers, where they provide service of their own, are failing to provide the most rural areas with quality service at affordable prices and they have shown little interest in working with the RLECs that seek the opportunity to utilize the spectrum to bring digital broadband wireless service to their customers and those residing in nearby rural communities. In the end, rural Americans pay the price of the existing rules and regulations which have permitted this result.

The impact of the current broadband paradigm in rural areas is reflected in the 2007 PEW Internet and American Life study on broadband adoption. According to this study, only 31 percent of Americans living in rural areas have broadband at home – one of the lowest percentages of any demographic group.<sup>5</sup> In other words, rural communities have adopted broadband at only 69 percent of the rate of their urban counterparts.

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<sup>5</sup> “Home Broadband Adoption 2007,” PEW Internet and American Life Project at 4.

### **III. RURAL CARRIERS HAVE INADEQUATE ACCESS TO THE SPECTRUM AND FACILITIES NECESSARY FOR WIRELESS SERVICES**

Increasingly, the essential ingredient to any telecommunications business plan that meets the demands of twenty-first century consumers is spectrum. RLECs need spectrum for wireless telephone and broadband services – the two most desired services in the market today. Unfortunately, as former FCC Chief Economist Simon Wilkie has proven in his recent paper “Spectrum Auctions are Not a Panacea,” the large national incumbents work diligently and successfully to bottle up spectrum in their own warehouses to keep the small players from competing. RLECs cannot compete with these tactics.

As the Commission is surely aware, America’s cities, suburbs and travel corridors, such as major highway routes, are the best served areas in the country. The level of service availability and quality in small towns and communities in rural America where spectrum is licensed to the nation’s large wireless incumbent carriers is in sharp contrast to that available in the urban areas and on the major roads served by those same carriers. The record before the Commission on every issue regarding spectrum allocation is replete with evidence of the continuing interest by RLECs in obtaining access to spectrum to serve rural communities. Congress recognized the valuable role RLECs could play in bringing spectrum services to rural America and, accordingly identified rural telephone companies as one of the Designated Entities for purposes of dissemination of access to spectrum. While Congress’s mandate has been recognized by the Commission,<sup>6</sup> the public record and the general lack of access to spectrum by RLECs serving rural areas reflects the fact that the intent to serve the public interest in rural

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<sup>6</sup> See e.g., 47 CFR § 1.2110.

community spectrum deployment has not been met. Accordingly, in order to provide advanced wireless broadband services in rural communities, it has become clear to BWP and its members that the nation's interests will be served by the promulgation of rules that ensure that there is a new nationwide competitor operating under a regulatory framework that is explicitly encouraged to work with RLECs to serve rural communities. This objective can be achieved, in part, by adopting rules that require build-out to rural communities and not just highways going by rural communities.

For rural carriers like the members of BWP, serving customers at home in their rural communities is only half of the battle because, like all Americans, the customers of rural carriers are nomadic. These customers travel all across their home states and the country for business and pleasure and want to have access to their broadband connections and services when they travel. Unfortunately, based on our experience with the large incumbent nationwide wireless carriers, BWP is concerned that the needs of rural customers will not be addressed in the absence of the adoption of Commission rules to ensure that the needs of those consumers are protected and advanced.

Rules are needed that will ensure that the spectrum does not lie fallow in rural communities, and that, instead, access to spectrum is provided to the RLECs that are ready, willing and able to utilize it to serve rural communities. Moreover, rules are needed to ensure that rural customers and their providers have reasonable access to spectrum at reasonable rate in order to utilize their broadband services when they travel throughout the nation. By establishing appropriate rules for the 2155-2175 MHz spectrum band, the FCC can ensure that RLECs have the access and resources necessary to provide rural customers with advanced wireless broadband services.

#### **IV. THE FCC SHOULD ADOPT SERVICE RULES THAT SERVE THE NEEDS OF ALL AMERICANS**

BWP respectfully submits that the FCC must do more to guarantee that valuable spectrum resources are quickly put to use for the benefit of all Americans. By establishing rules for the 2155-2175 MHz band that include strict buildout benchmarks beginning two years after licensing, the FCC can ensure that the ultimate licensee will provide services to every corner of the country. The wholesale partnership between BWP and M2Z Networks demonstrates the public interest benefits of a comprehensive buildout plan and a nationwide carrier willing to work with rural carriers in good faith.

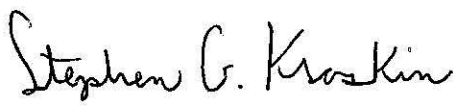
M2Z's wholesale service offering will provide a much needed capability for rural telephone companies by giving their customers access to national broadband data roaming. In exchange, M2Z can both expand the customer base that utilizes its spectrum and support existing consumer relationships that RLECs have developed over many years. This, in turn, will promote the deployment of advanced services in rural areas and encourage other nationwide carriers to partner with RLECs and other entities, thus ensuring that spectrum does not remain fallow in the underserved communities of the nation. In order to achieve these goals, however, the Commission must adopt rules for the 2155-2175 MHz band that are explicitly designed to foster these results.

#### **V. CONCLUSION**

RLECs contribute substantially to the backbone of the American communications industry and diligently serve many millions of customers in the American heartland, in spite of the uncooperative nature of existing nationwide carriers. But the nation's small carriers that are committed to the deployment of advanced services in rural America need the help of the Commission to continue that good work. By provisioning rules for the

2155-2175 MHz band that promote both the expedient utilization of the spectrum in rural areas and partnering arrangements between spectrum licensees and rural carriers, the Commission can best fulfill its mandate to ensure that all Americans have reasonably prices access to adequate communications facilities and services including advanced broadband wireless services. Accordingly, BWP and its member RLECS respectfully urge the Commission to promulgate rules in this proceeding that will ensure the facilitation of real, meaningful access to spectrum, through such mechanisms as nationwide wholesale agreements, by rural carriers who are committed to the deployment of broadband wireless services throughout the rural communities of the nation..

Respectfully submitted,

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